

Internal Revenue Service

Department of the Treasury

District
Director

31 Hopkins Plaza, Baltimore, MD 21201

Person to Contact:

Telephone Number:

Refer Reply to:

Date:

CERTIFIED MAIL

Dear Applicant:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code and have determined that you do not qualify for exemption under that section. Our reasons for this conclusion and the facts on which it is based are explained below.

The information submitted indicates that the organization was formed as a corporation under the [REDACTED]. Its purposes, as stated, "is to provide a meeting ground for those who are interested in woodwork of any type. To upgrade woodworking through education and communication; to hold exhibits, conduct educational workshops, group study seminars and study trips; to conduct promotional activities to benefit the [REDACTED]." The organization's corporate articles were amended [REDACTED] to meet the organizational test of section 501(c)(3) of the Internal Revenue Code.

The organization's primary source of receipts are from membership dues, advertising, "bar income" and exhibition fees. It does indicate however, receiving a grant in 1995 in the amount of \$1000 from "[REDACTED]".

Its expenditures consists of exhibition expenses; including decorations, rental expenses, food/drink, banners, programs and other miscellaneous costs.

Section 501(c)(3) of the Internal Revenue Code provides for the exemption from Federal income tax for organizations which are organized and operated exclusively for charitable, religious, and educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(a)(1) of the Income Tax Regulations provides that in order to qualify for exemption under section 501(c)(3), an organization must be both organized and operated exclusively for one or more exempt purposes. Failure to meet either the organizational or operational test will disqualify an organization from exemption under section 501(c)(3).

[REDACTED]
[REDACTED]
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[REDACTED]
[REDACTED]

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CERTIFIED MAIL

Dear Applicant:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code and have determined that you do not qualify for exemption under that section. Our reasons for this conclusion and the facts on which it is based are explained below.

The information submitted indicates that the organization was formed as a corporation under the laws of the State of [REDACTED]. It purports, as stated, "to provide a meeting ground for those who are interested in woodwork of any type. To upgrade woodworking through education and communication; to hold exhibits, conduct educational workshops, group study seminars and study trips; to conduct promotional activities to benefit the [REDACTED]". The organization's corporate articles were amended [REDACTED] to meet the organizational test of section 501(c)(3) of the Internal Revenue Code.

The organization's primary source of receipts are from membership dues, advertising, "tax income" and exhibition fees. It does indicate however receiving a grant in 1955 in the amount of \$1000 from [REDACTED].

Its expenditure consists of exhibition expenses including decorations, rental expenses, food/drink, banners, programs and other miscellaneous.

Section 501(c)(3) of the Internal Revenue Code provides for the exemption from Federal income tax for organizations which are organized and operated exclusively for charitable, religious, and educational purposes, no part of the net assets of which inures to the benefit of any private shareholder.

Regulations under section 501(c)(3) of the Internal Revenue Code provide that to be exempt under section 501(c)(3), an organization must

Code	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
Surname	[REDACTED]	[REDACTED]	[REDACTED]				
Date	[REDACTED]	[REDACTED]	[REDACTED]				

Section 1.501(c)(3)-1(b)(1) of the Income Tax Regulations specifies that an organization is organized for one or more exempt purposes, if its organizing document limits the purposes of such organization to an exempt purpose.

Section 1.501(c)(3)-1(c)(1) of the Regulations provides that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish such purposes. An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Section 1.501(c)(3)-1(d)(1)(ii) of the Regulations states that an organization is not operated for any purpose under section 501(c)(3), unless it serves public rather than private interests. Therefore, it is necessary that an organization establish that it is not operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled directly or indirectly, by such private interests in order to meet the requirements of this subparagraph. Likewise, even though an organization may have exempt purposes, it will not be considered operating exclusively for such purposes, if more than an insubstantial part of its activities serve private interests.

Revenue Ruling 66-178, C.B. 1966-1, 138 held that sponsoring art exhibits was an educational pursuit when an organization exhibited the work of unknown artists to the public. Art was displayed on a gratuitous basis and there was no selling of art at the exhibits. Membership in the organization was not required to exhibit artwork.

Revenue Ruling 71-395, C.B. 1971-2, 228 describes a cooperative art gallery formed and operated by a group of approximately 50 member artists for the purpose of exhibiting and selling the members works of art. Additional members were admitted by approval by the existing members. The gallery was open six days a week and a sales commission was retained to cover the costs of the operation. A panel chosen by the members selected works for exhibition that in its opinion, met a certain minimal artistic standard. Special showings by individual members on a rotating basis were also held. All work was available for sale to the public while many were available for rent. The gallery retained a commission from sales and rentals sufficient to cover operating cost. Deficiencies were covered by assessments of the members.

In this case, the gallery was engaged in selling only the works of its members and was a vehicle for advancing their careers and promoting the sale of their work. The gallery was held not to be exempt as it served the private interests of its members, though the exhibition and sale of paintings may be considered educational in other respects.

Revenue Ruling 76-152, C.B. 1976-1, 151 describes an organization consisting of a group of art patrons, formed to promote community understanding of modern art trends. The organization selected modern art works of local artists for exhibit at its gallery and for possible sale. The gallery being open to the general public. Modern art work of any local artist was eligible for consideration for exhibition and if selected, the artist's work is displayed on a consignment basis with the artist setting the selling price. The artist had no control over the organization or its selection process. While less than customary commercial charges, the organization retained a ten percent commission on all sales.

As is the case in Revenue Ruling 71-395, the artists described in the situation in Revenue Ruling 76-152 directly benefited by the exhibition and sale of their works, with a result that a major activity of the organization was serving the private interests of those artist whose works were displayed.

This was the case even though the fees charged by the organization were less than sufficient to cover the cost of operating the gallery. Since ninety percent of sales proceeds were turned over to the individual artists, such direct benefits are considered substantial by any measure and could not be dismissed as being merely incidental to its overall purposes. The fact that the artists had no control over the selection of their works for display did not change this conclusion.

In describing your activities, you provide that you are "organized to preserve the fine art of woodworking [REDACTED]." A forum is offered "where seasoned woodworkers, novice woodworkers or people who are curious about woodworking can gain information, learn skills, exchange ideas, discuss problems and enjoy good fellowship associated with woodworking". Membership is "open to all professionals and hobbyist with an interest in fine woodworking. Monthly meetings are mainly a demonstration of some aspect of woodworking at the home or establishment of one of the members." In time however, the organization "seeks to provide demonstrations at public places and events within the educational setting".

Information submitted with your application indicates that the organization meets each month and that "paid up" members are notified by mail or telephone in advance, as to the place of the meeting and nature of the demonstration or discussion. You state that membership is open to anyone with an interest in woodworking for a donation of \$ [REDACTED] and any costs of holding meetings is absorbed by the host member. You described one specific event as a three day exhibition and sale at the "[REDACTED]". While public admittance was free, exhibiting individuals paid a fee to cover the rental of the premises and were able to sell their work to the public. Flyers were handed out giving information on the Guild with the intention of attracting

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new members however, most new members hear about the [REDACTED] from existing members and accompany them to a meeting.

In response to our requests for information, you indicated that you currently have [REDACTED] members. You also indicated that exhibitors determine the prices of their artwork and the items for exhibition are approved or rejected by a committee made up of senior [REDACTED] members with ten or more years of professional wood-working experience. You further stated that items had to attain a certain standard of quality and good workmanship in order not to detract from the other exhibits.

You state the general public may participate in your activities however, it appears the only extent to which they are actually involved, is for the purpose of attending exhibitions and purchasing works of art. Only current members are made aware of your scheduled monthly meetings and efforts to attract additional members is, for the most part, limited to word-of-mouth contacts, thereby limiting your activities to an exclusive group of participants.

While your organizing document contains most of the required organizational language, you have made no provision for the proper dedication of your assets in the form of a dissolution clause. In any case, we consider your activities to be similar to those described in Revenue Rulings 71-395 and 76-152. While the promotion of art in many respects may be considered educational, the manner in which it is conducted by your organization provides substantial private benefit to your members. You have, in essence, created a vehicle for advancing the careers of your members through the showing and selling of their art work.

The element of public benefit is a necessary condition of legal charity. If the purposes or operations of an organization are such that a private individual who is not a member of a charitable class receives other than an insubstantial or indirect economic benefit therefrom, such activities are considered inconsistent with the meaning of exclusiveness. Therefore, you are not operated for public benefit as specified by regulation 1.501(c)(3)-1(d)(1)(ii).

Based on the evidence submitted, we have determined that you have not met the burden of proof to establish that you are operated exclusively for an exempt purpose as you serve the private interests of your members.

Therefore, we have concluded that you do not qualify for exemption from Federal Income Tax as an organization described in section 501(c)(3) of the Code. In accordance with this determination, you are required to file Federal Income Tax returns on Form 1120.

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Contributions to your organization are not deductible by donors under section 170(c)(2) of the Code.

In accordance with the provisions of section 6104(c) of the Code, a copy of this letter will be sent to the appropriate state officials.

If you do not agree with our determination, you may request consideration of this matter by the Office of Regional Director of Appeals. To do this, you should file a written appeal as explained in the enclosed Publication 892. Your appeal should contain all the facts, law and any other information to support your position. If you want a hearing, please request it when you file your appeal and you will be contacted to arrange a date. The hearing may be held at the regional office, or, if you request, at a mutually convenient district office. If you will be represented by someone who is not one of your principal officers, that person will need to file a power of attorney or tax information authorization with us.

If you do not appeal this determination within 30 days from the date of this letter, as explained in Publication 892, this letter will become our final determination on this matter. Further, if you do not appeal this determination in a timely manner, it will be considered by the Internal Revenue as a failure to exhaust administrative remedies available. Section 7428(b)(2) of the Code provides, in part, that "A declaratory judgement or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted all administrative remedies available to it within the Service."

Appeals submitted which do not contain all the documentation required by Publication 892 will be returned for completion.

If you have any questions, please contact the person whose name and telephone number appear in the heading of this letter.

Sincerely,



Paul M. Harrington
District Director
Southeast Key District